IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2282 OF 1999.

M/s.Elegant Pharmaceuticals Ltd.
and others. ... Petitioners

Versus.

Yogendra V.Balsari and another. ... Respondents.

Shri Ganesh Gole for the Petitioners.

Ms.M.M.Deshmukh, A.P.P. for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 16th August, 2005.

P.C.:

1. Heard Shri Gole for the Petitioners. The Petitioners are accused in a complaint under sections 138 and 141 of the Negotiable Instruments Act, 1881. The challenge in this Writ Petition is to the complaint on the ground that the proceedings under section 16 of the Sick Industrial Companies (Special Provisions) Act, 1986 is pending in so far as the Petitioner No.1-company is concerned before the B.I.F.R. The second challenge is based on the winding up proceedings commenced under section 434 of the Companies Act, 1956 against the Petitioner No.1-company.

2. The Complaint has been filed on 4th May 1998. The reference to the B.I.F.R. has been made in the year 1999. In view of the law laid down by the Apex Court in the case reported in 2000 Cri.L.J. page 1464 (M/s.Kusum

Ingots & Alloys Ltd. v/s. M/s.Pennar Peterson Securities ltd.), the challenge on the ground of reference to B.I.F.R. cannot be entertained. The pendency of the petition for winding up against the Petitioner No.1 is also not a ground to interfere. There is no merit in the petition and the same is rejected.

Judge.